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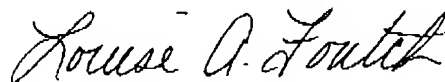
linked to a promoter, wherein said nucleotide sequence of interest is heterologous to said promoter and wherein said promoter is selected from the group consisting of:

- A5*  
*can*
- (a) a promoter sequence comprising the sequence set forth in SEQ ID NO:3;
  - (b) a promoter sequence having at least 75% identity to SEQ ID NO:3 wherein said promoter sequence regulates transcription of said heterologous nucleotide sequence of interest; and,
  - (c) a promoter comprising at least 20 contiguous nucleotide sequences of SEQ ID NO:3, wherein said promoter sequence regulates transcription of said heterologous nucleotide sequence of interest.

Remarks

Replacements in the specification and claims were made in order to eliminate reference to American Type Culture Collection (ATCC) deposits. In addition, amendments were made to adjust the percent identity levels in some claims. No new matter was added by way of amendment. Support for the amendments can be found throughout the specification as originally filed.

Respectfully submitted,



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Version with Markings to Show Changes Made

In the Specification

Please amend the specification to remove reference to DNA sequence deposits as follows:

On page 4, lines 13-18 should be replaced as follows:

nucleotide sequences encoding the amino acid sequence shown in SEQ ID NO: 2[or the nucleotide sequence encoding the DNA sequence deposited in a bacterial host as Patent Deposit Nos. \_\_\_\_]. Further provided are polypeptides having an amino acid sequence encoded by a nucleic acid molecule described herein, for example those set forth in SEQ ID NO:1[ or those deposited in a bacterial host as Patent Deposit Nos. \_\_\_\_ and fragments and variants thereof].

On page 5, lines 16-17 should be replaced as follows:

comprising the nucleotide sequence shown in SEQ ID NO:3[ or the nucleotide sequence encoding the DNA sequence deposited in a bacterial host as Patent Deposit No. \_\_\_\_].

On page 6, lines 12-18 should be deleted as follows:

[Plasmids containing the nucleotide sequences of the invention were deposited with the Patent Depository of the American Type Culture Collection (ATCC), Manassas, Virginia, and assigned Patent Deposit No. \_\_\_\_\_. These deposits will be maintained under the terms of the Budapest Treaty on the International Recognition of the Deposit

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of Microorganisms for the Purposes of Patent Procedure. These deposits were made merely as a convenience for those of skill in the art and are not an admission that a deposit is required under 35 U.S.C. §112.]

In the Claims

Please amend claims 1, 2, 6, 7, 14, 18 and 21 to read as follows:

1. (amended) An isolated polypeptide selected from the group consisting of:
  - (a) a polypeptide comprising an amino acid sequence set forth in SEQ ID NO: 2; and
  - (b) a polypeptide encoded by a nucleotide sequence comprising the sequence set forth in SEQ ID NO: 1;
  - (c) a polypeptide sequence encoded by the cDNA insert deposited as Patent Deposit No. \_\_\_\_\_;
  - (d) a polypeptide having at least 75% identity to the sequence of SEQ ID NO:2, wherein said polypeptide has proteinase inhibitor-like activity; and,
  - (e) a polypeptide comprising at least 20 contiguous amino acids of SEQ ID NO:2].
2. (amended) An isolated nucleic acid molecule comprising a nucleotide sequence selected from the group consisting of:
  - (a) a nucleotide sequence comprising the sequence set forth in SEQ ID NO:1;
  - (b) a nucleotide sequence encoding a polypeptide comprising the amino acid sequence set forth in SEQ ID NO:2;
  - [(c) a nucleotide sequence comprising the cDNA sequence deposited as Patent Deposit No. \_\_\_\_\_];
  - [(d)c] a nucleotide sequence having at least [7]95% identity to the

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sequence of SEQ ID NO:1, wherein said sequence encodes a polypeptide having proteinase inhibitor-like activity;

[(e) a nucleotide sequence having at least 20 contiguous nucleotide sequences of SEQ ID NO:1;]

[(f)d) a nucleotide sequence comprising the complement of a sequence corresponding to a), b), or c)[, d) or e)]; and,

[(g)e) a nucleotide sequence that hybridizes under stringent conditions to the complement of a)[, or b)[ (or c)], wherein said sequence encodes a polypeptide having proteinase inhibitor-like activity and said stringent conditions comprise hybridization in 50% formamide, 1 M NaCl, 1% SDS at 37°C and a wash in 0.1X SSC at 60°C to 65°C.

6. (amended) A plant having stably incorporated into its genome at least one DNA construct comprising a nucleotide sequence operably linked to a heterologous promoter that drives expression in said plant, wherein said nucleotide sequence is selected from the group consisting of:

(a) a nucleotide sequence comprising the sequence set forth in SEQ ID NO:1;

(b) a nucleotide sequence encoding a polypeptide comprising the amino acid sequence set forth in SEQ ID NO:2;

[(c) a nucleotide sequence comprising the cDNA sequence deposited as Patent Deposit No. \_\_\_\_\_;]

[(d)c) a nucleotide sequence having at least [7]95% identity to the sequence of SEQ ID NO:1;

[(e) a nucleotide sequence having at least 20 contiguous nucleotide sequences of SEQ ID NO:1, wherein said sequence encodes a polypeptide having proteinase inhibitor-like activity;]

[(f)d) a nucleotide sequence comprising the complement of a sequence corresponding to a), b), or c)[, d) or e)]; and,

[(g)e) a nucleotide sequence that hybridizes under stringent conditions to

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the complement of a)[.]or b)[ or c)], wherein said sequence encodes a polypeptide having proteinase inhibitor-like activity and said stringent conditions comprise hybridization in 50% formamide, 1 M NaCl, 1% SDS at 37°C and a wash in 0.1X SSC at 60°C to 65°C.

7. (amended) The DNA construct of claim 3 wherein said promoter is selected from the group consisting of:
- (a) a nucleotide sequence comprising the sequence set forth in SEQ ID NO:3;
  - [(b) a nucleotide sequence comprising the DNA insert of Patent Deposit No. \_\_\_\_;]
  - [(c)b) a nucleotide sequence having at least 75% identity to the sequence of SEQ ID NO:3, wherein said sequence is capable of regulating transcription; and,
  - [(d)c) a nucleotide sequence comprising at least 20 contiguous nucleotides of SEQ ID NO:3, wherein said sequence is capable of regulating transcription.
14. (amended) A method for modulating disease resistance in a plant, said method comprising stably introducing into the genome of the plant at least one DNA construct comprising a nucleotide sequence operably linked to a heterologous promoter active in said plant, wherein said nucleotide sequence is selected from the group consisting of:
- (a) a nucleotide sequence comprising the sequence set forth in SEQ ID NO:1;
  - (b) a nucleotide sequence encoding a polypeptide comprising the amino acid sequence set forth in SEQ ID NO:2;
  - [(c) a nucleotide sequence comprising the cDNA insert of Patent Deposit No. \_\_\_\_;]
  - [(d)c) a nucleotide sequence having at least [7]95% identity to the sequence of SEQ ID NO:1 wherein said nucleotide sequence encodes

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- a polypeptide having proteinase inhibitor-like activity; and  
[(e) a nucleotide sequence comprising at least 20 contiguous nucleotides of SEQ ID NO:1; and,]  
[(f)d] a nucleotide sequence that hybridizes under stringent conditions to the complement of a)[.]or b)[ or c)], wherein said sequence encodes a polypeptide having proteinase inhibitor-like activity and said stringent conditions comprise hybridization in 50% formamide, 1 M NaCl, 1% SDS at 37°C and a wash in 0.1X SSC at 60°C to 65°C.
18. (amended) An isolated nucleotide sequence selected from the group consisting of:  
(a) a nucleotide sequence comprising the sequence set forth in SEQ ID NO:3;  
[(b) a nucleotide sequence comprising the DNA insert of the Patent Deposit No. \_\_\_\_;]  
[(c)b] a nucleotide sequence having at least 75% identity to SEQ ID NO:3, wherein said nucleotide sequence is capable of regulating transcription; and,  
[(d)c] a nucleotide sequence comprising at least 20 contiguous nucleotide sequences of SEQ ID NO:3, wherein said nucleotide sequence is capable of regulating transcription.
21. (amended) A plant having stably incorporated into its genome at least one DNA construct comprising a nucleotide sequence of interest operably linked to a promoter, wherein said nucleotide sequence of interest is heterologous to said promoter and wherein said promoter is selected from the group consisting of:  
(a) a promoter sequence comprising the sequence set forth in SEQ ID NO:3;  
[(b) a promoter sequence comprisint the DNA insert of the Patent Deposit No. \_\_\_\_;]

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- [(c)b) a promoter sequence having at least 75% identity to SEQ ID NO:3  
wherein said promoter sequence regulates transcription of said  
heterologous nucleotide sequence of interest; and,
- [(d)c) a promoter comprising at least 20 contiguous nucleotide sequences  
of SEQ ID NO:3, wherein said promoter sequence regulates  
transcription of said heterologous nucleotide sequence of interest.